

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

BARBARA MOHON,

Plaintiff,

vs.

No. CIV 18-0915 JB/KRS

AGENTRA, LLC; TRACYANN NICOLE
HAMILTON and JANE DOES 1-10,

Defendants.

ORDER¹

THIS MATTER comes before the Court on: (i) the Plaintiff's Third Motion to Compel Discovery, filed October 2, 2020 (Doc. 64)(“Motion to Compel”); and (ii) Plaintiff’s First Motion for Summary Judgment, filed December 29, 2020 (Doc. 66)(“MSJ”). The Court held a hearing on August 13, 2021. See Clerk’s Minutes, filed August 13, 2021 (Doc. 80). The primary issues are: (i) whether the Court should compel Defendant Agentra, LLC to provide the discovery the Court ordered previously Agentra to produce, because Agentra continues to not produce certain requests for production; and (ii) whether the Court should grant summary judgment under rule 56 of the Federal Rules of Civil Procedure and conclude that Agentra “is subject to the personal jurisdiction of the Court,” MSJ at 8, because Plaintiff Barbara Mohon has established personal jurisdiction in her Complaint for Violations of the Telephone Consumer Protection Act, the Unfair Practices Act and Torts, filed September 28, 2018 (Doc. 1-1), and Agentra continues to not produce discovery

¹This Order disposes of: (i) the Plaintiff’s Third Motion to Compel Discovery, filed October 2, 2020 (Doc. 64); and (ii) Plaintiff’s First Motion for Summary Judgment, filed December 29, 2020 (Doc. 66). The Court will issue a Memorandum Opinion at a later date fully detailing its rationale for its decision.

necessary to establish personal jurisdiction. The Court concludes: (i) for the reasons stated in the record, the Court grants in part and denies in part the Motion, see Draft Transcript of Hearing at 14:1-19:5 (taken August 13, 2021)(Court, Childress, Richmond)(“Tr.”);² and (ii) the Court denies the MSJ, because the motion is brought improperly under rule 56, and is, in effect, another motion to compel under rule 37 of the Federal Rules of Procedure.

At the hearing the Court summarized:

The Court: Well Mr. Childress, it seems to me . . . we ought to give Mr. Richmond a week to produce this material, it sounds like once you have it, you have his representation on the record that either there . . . are no documents that fall within the scope of five categories or . . . they produced everything that falls within the request . . . So, I’m effectively granting your Motion to Compel, but it seems to me we ought to take a look at those documents so we can see what you have. What do you think?

Mr. Childress: That’s fair enough, Your Honor . . .

. . .

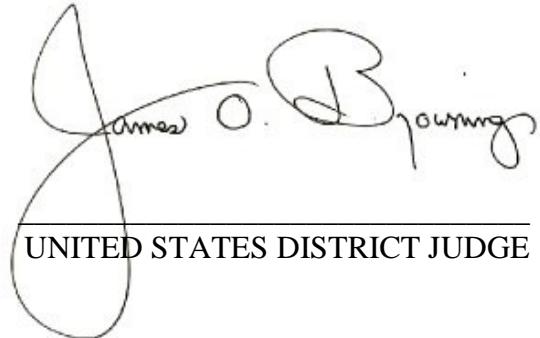
The Court: So probably by the end of business on Wednesday of next week, [Agentra] need[s] to have everything to [Mohon] so that [Mohon] can look at it on Thursday and then we can get together at 4:00 that afternoon [to] see where we are.

Mr. Richard: [W]e’ll produce these materials in an email and also represent to Mr. Childress which categories they fall under so that he has a complete answer with regards to the Orders, all of them, including [Order, filed March 30, 2020 (Doc. 54)] and [Order, filed February 23, 2021 (Doc. 70)].

Tr. at 14:1-19:5 (Court, Childress, Richmond).

²The Court’s citations to any draft transcripts of hearings refer to the court reporter’s original, unedited version. Any final transcript may contain slightly different page and/or line numbers.

IT IS ORDERED that: (i) the Plaintiff's Third Motion to Compel Discovery, filed October 2, 2020 (Doc. 64), is granted in part and denied in part; (ii) Plaintiff's First Motion for Summary Judgment, filed December 29, 2020 (Doc. 66), is denied; (iii) and Defendant Agentra, LLC is ordered to produce the material in the Order, filed March 30, 2020 (Doc. 54), and the Order, filed February 23, 2021 (Doc. 70).



The image shows a handwritten signature in black ink. The signature reads "James O. B. Young". Below the signature is a circular emblem containing a stylized letter 'J'. Underneath the emblem, the text "UNITED STATES DISTRICT JUDGE" is printed in capital letters.

Counsel:

Sidney Childress
Santa Fe, New Mexico

Attorney for the Plaintiff

Paul S. Grand
Law Offices of Paul S. Grand
Santa Fe, New Mexico

--and--

William Richmond
Michell Lee
Platt Cheema Richmond PLLC
Dallas, Texas

Attorneys for Defendant Agentra, LLC